

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

KOCH FOODS OF ALABAMA, LLC,
an Alabama limited liability company,

Plaintiff and Counter-
Defendant,

vs.

GENERAL ELECTRIC CAPITAL
CORPORATION, a Delaware corporation,

Defendant and Counter-
Plaintiff,

CIVIL ACTION NO.
2:07 CV 522-MHT

NOTICE OF FILING FOUR PROPOSED ORDERS IN LIMINE

I, the undersigned attorney for Defendant/Counter-Plaintiff General Electric Capital Corporation, do hereby certify that on the 31st day of March, 2008, the following proposed orders *in limine* were filed with the Court:

1. Order in Limine Excluding Testimony Pertaining to the Status of the Equipment as a Fixture;
2. Order in Limine Excluding Opinion Testimony of Lay Witnesses;
3. Order Excluding Opinions or Testimony of Expert David Dalfonso Not Included in the Dalfonso Expert Report; and
4. Order in Limine Excluding Opinions and Testimony of Expert David Dalfonso Pursuant to Rules 702 and 403 of the Federal Rules of Evidence.

Dated: March 31, 2008.

By: /s/ Rusha C. Smith
Attorney for General Electric Capital
Corporation

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Thomas G. Mancuso, Esq.
Thomas T. Gallion, III, Esq.
Constance C. Walker, Esq.
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/s/ Rusha C. Smith
COUNSEL

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ORDER IN LIMINE EXCLUDING TESTIMONY
PERTAINING TO THE STATUS OF THE EQUIPMENT AS A FIXTURE

This matter coming to be hearing on General Electric Capital Corporation's Motion *In Limine* to Exclude Testimony Pertaining to the Status of the Equipment as a Fixture (the "Motion") filed in the above-captioned proceeding on March 31, 2008, due and proper notice having been given, this Court being fully advised in the premises, and good cause appearing therefore,

IT IS HEREBY ORDERED AND ADJUDGED that Koch Foods of Alabama, LLC is barred from seeking to introduce into evidence any testimony that purports to establish that the equipment that is the subject of this proceeding was, at any time, a fixture of the real property.

Dated: April ___, 2008

By: _____
Honorable Myron H. Thompson

UNITED STATES DISTRICT COURT
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CIVIL ACTION NO.
2:07 CV 522-MHT

ORDER IN LIMINE EXCLUDING
OPINION TESTIMONY OF LAY WITNESSES

This matter coming to be heard on General Electric Capital Corporation's Motion *In Limine* to Exclude Opinion Testimony of Lay Witnesses (the "Motion"), filed in the above-captioned proceeding on March 31, 2008, due and proper notice having been given, this Court being fully advised in the premises, and good cause appearing therefore,

IT IS HEREBY ORDERED AND ADJUDGED that Koch Foods of Alabama, LLC ("Koch Foods") is barred from seeking to introduce into evidence any testimony based on scientific, technical, or other specialized knowledge from any witness not properly identified by Koch Foods as an individual who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence.

Dated: April __, 2008

By: _____
Honorable Myron H. Thompson

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2:07 CV 522-MHT

ORDER EXCLUDING OPINIONS OR TESTIMONY OF EXPERT DAVID
DALFONSO NOT INCLUDED IN THE DALFONSO EXPERT REPORT

This matter coming to be heard on General Electric Capital Corporation's Motion *In Limine* to Exclude Opinions or Testimony of Expert David Dalfonso Not Included in the Dalfonso Expert Report (the "Motion"), filed in the above-captioned proceeding on March 31, 2008, due and proper notice having been given, this Court being fully advised in the premises, and good cause appearing therefore:

IT IS HEREBY ORDERED AND ADJUDGED:

1. That Koch Foods of Alabama, LLC ("Koch Foods") is barred from seeking to introduce into evidence any testimony or opinions from David Dalfonso ("Mr. Dalfonso") pertaining to the information contained in the Expert Report of Robert Breakstone on Koch Foods¹; and

¹ All capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Motion.

2. That Koch Foods is barred from seeking to introduce any testimony or opinions from Mr. Dalfonso pertaining to the value of the Equipment at any time prior to October 19, 2007.

Dated: April __, 2008

By: _____
Honorable Myron H. Thompson

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ORDER IN LIMINE EXCLUDING OPINIONS AND
TESTIMONY OF EXPERT DAVID DALFONSO PURSUANT
TO RULES 702 AND 403 OF THE FEDERAL RULES OF EVIDENCE

This matter coming to be heard on General Electric Capital Corporation's Motion *In Limine* to Exclude Opinions and Testimony of Expert David Dalfonso Pursuant to Rules 702 and 403 of the Federal Rules of Evidence (the "Motion"), filed in the above-captioned proceeding on March 31, 2008, due and proper notice having been given, this Court being fully advised in the premises, and good cause appearing therefore:

IT IS HEREBY ORDERED AND ADJUDGED:

1. That the testimony and opinions included in the Expert Report of David Dalfonso of Rosen Systems, Inc. (the "Dalfonso Expert Report")¹ are barred from the evidence for failure to meet the requirements for admissibility under Federal Rule of Evidence 702; and

¹ All capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Motion.

2. That the opinions and testimony included in the Dalfonso Expert Report are barred from the evidence because their probative value is substantially outweighed by the probability that they will mislead the jury.

Dated: April __, 2008

By: _____
Honorable Myron H. Thompson